IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 5335 of 2005

Between:

Mourya quality Food point, rep.by its Prop. Jasti Eswara Prasad, 5-9-18/9, Saifabad, Hyderabad.

... PETITIONER

AND

Municipal Corporation of Hyderabad, rep.by its Commissioner, M.C.H.Building, Liberty, Hyderabad.

...RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction, especially one in the nature of writ of Mandamus declaring the action of the respondent in passing the impugned order NO.AC(E2)19/Advt./MCH/2004-2005, dt.
01-02-2005 as illegal, intentional, malafide, arbitrary, contrary to law, opposed to principles of natural justice and consequently set aside the same as illegal.

Counsel for the Petitioner: MR.K.V.BHANU PRASAD

Counsel for the Respondent: MR.RAMA RAO GHANTA

The Court at the stage of admission made the following:

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ORDER:

This writ petition is filed seeking a declaration that the action of the respondent-Corporation in passing the impugned notice under Section 421 read with Section 622 of Hyderabad Municipal Corporatidon Act, 1955, (for short, 'the Act'), and consequently to set aside the same, as arbitrary and illegal.

I have heard the learned counsel for the petitioner and the learned Standing Counsel Mr. Rama Rao Ghanta appearing for the respondent-Corporation.

The learned counsel for the petitioner contends that the Name Board securely fixed on parapet wall of the business premises of the petitioner is not a sky sign nor an advertisement and therefore Section 421 read with Section 622 of the Act do not attract. Thus, according to the learned Counsel, the petitioner is not liable to pay the advertisement fees as demanded under the impugned notice. Since admittedly the said objection raised by the petitioner has not been considered by the respondent-Corporation before issuing the impugned demand, I deem it appropriate to dispose of the writ petition granting liberty to the petitioner to submit his explanation raising all the objections as are available under law treating the impugned demand notice as a show cause notice. If any such explanation is submitted by the petitioner within four weeks from today, the respondent-Corporation shall consider the same and pass appropriate orders afresh in accordance with law. Till such orders are passed, the impugned notice shall not be given effect to.

However, the learned counsel for the petitioner states that the respondent-

Corporation has already removed the board displayed at the entrance of the petitioner's Tiffin Center and the same was left in open yard and getting damaged. Since, by virtue of this order an opportunity is given to the petitioner to raise his objections and the respondent-Corporation is directed to consider the same and pass appropriate orders afresh, I deem it appropriate to direct the respondent-Corporation to handover the said display board to the petitioner for safe custody till fresh orders are passed by the Corporation. However, the same shall be subject to final orders that may be passed by the respondent-Corporation, in pursuance of this order.

The Writ Petition is accordingly disposed of. No order as to costs.

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G. ROHINI, J

Dated: 17-03-2005

LSK

ASSISTANT REGISTRAR

To

1. The Commissioner, Municipal Corporation of Hyderabad,
M.C.H.Building, Liberty, Hyderabad.

2. Two C.D. copies.